

EFiled: Nov 19 2004 10:54 AM EST
Filing ID 4640518



IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

IN AND FOR NEW CASTLE COUNTY

WILLIAM R. DAVIS, as executor)	
of the estate of James W. Davis,)	
Sr., deceased,)	
)	
Plaintiff,)	C.A. No.
)	
v.)	
)	
CHRISTINE M. POFFENBARGER, and)	
RAYMOND JAMES & ASSOCIATES, INC.,)	
a foreign corporation,)	
)	
Defendant.)	

COMPLAINT

1. Plaintiff William R. Davis ("plaintiff") is an individual and resident of the Commonwealth of Pennsylvania.

2. Defendant Christine M. Poffenbarger ("Poffenbarger") is an individual and resident of the State of Maryland.

3. Defendant Raymond James & Associates, Inc. ("RJ") is a foreign corporation licensed to transact business in the State of Delaware.

4. Plaintiff is the duly appointed executor of the estate of James W. Davis, Sr. ("decedent") who died testate on June 12, 2004. The decedent was a resident of the State of Delaware at the time of his death.

5. The decedent owned an individual retirement account (IRA) the custodian of which was defendant RJ. The account number is 4380.

6. At all times relevant hereto, the named beneficiary for

the IRA was defendant Poffenbarger.

7. Prior to the decedent's death, the plaintiff was the decedent's attorney-in-fact pursuant to a durable power of attorney (POA) dated November 14, 1996.

8. On June 9, 2004, at the decedent's direction, and for the sole use and benefit of the decedent, the plaintiff faxed investment instructions to RJ directing RJ to sell the IRA.

9. On information and belief, RJ processed the instructions and established a settlement date of June 14, 2004.

10. The decedent died on June 12, 2004.

11. Upon learning of the decedent's death, RJ ceased processing the sale request.

12. As of the date of this complaint, the IRA is still under the custodianship of RJ.

13. The plaintiff actually or substantially complied with RJ's requirements for transacting the sale request for the IRA. Accordingly, the IRA should be deemed to have been sold prior to the decedent's death and the proceeds of the IRA are property of the decedent's estate.

14. On information and belief, Poffenbarger claims that the IRA should be distributed to her as named beneficiary.

15. Plaintiff lacks an adequate remedy at law.

WHEREFORE the plaintiff respectfully requests that the Court enter an Order:

a) declaring that the proceeds of the IRA are the property

of the decedent's estate;

b) enjoining RJ from distributing the proceeds of the IRA pending an adjudication of this matter;

c) awarding plaintiff his attorneys' fees and court costs; and

d) granting such other relief as the Court deems equitable.

FERRY, JOSEPH & PEARCE, P.A.

/s/ David J. Ferry, Jr.
DAVID J. FERRY, JR. (#2149)
824 Market Street, Suite 904
P.O. Box 1351
Wilmington, DE 19899-1351
(302) 575-1555
Attorney for Plaintiff

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RAYMOND JAMES & ASSOCIATES, INC.,)	
a foreign corporation,)	
)	
Defendant.)	

P R A E C I P E

Please issue summons and complaint to the defendants as follows:

1. Defendant Christine M. Poffenbarger by serving her attorney, Peter M. Sweeney, Esquire, Gordon, Fournaris & Mammarella, P.A., 1925 Lovering Avenue, Wilmington DE 19806, who is authorized to accept service on her behalf.

2. Defendant Raymond James & Associates, Inc., by serving its registered agent, The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington DE 19801.

FERRY, JOSEPH & PEARCE, P.A.

/s/ David J. Ferry, Jr.
DAVID J. FERRY, JR. (#2149)
824 Market Street, Suite 904
P.O. Box 1351
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**SUPPLEMENTAL INFORMATION PURSUANT TO RULE 3(a)
OF THE RULES OF THE COURT OF CHANCERY**

The information contained herewith is for the use by the Court for statistical and administrative purposes only. Nothing stated herein shall be deemed an admission by or binding upon any party.

1. Caption of Case:

William R. Davis, executor of the estate of James W. Davis, Sr.,
deceased, Plaintiff,
v.
Christine M. Poffenbarger and Raymond James & Associates, Inc. a foreign
corporation, Defendants.

2. Date Filed: November 19, 2004

3. Name and address of counsel for Plaintiffs:

David J. Ferry, Jr. (#2149)
Ferry, Joseph & Pearce, P.A.
824 N. Market Street
P.O. Box 1351
Wilmington, DE 19899-1351
(302) 575-1555

4. Short statement of nature of claim asserted:

Declaratory judgment.

5. Substantive field of law involved (check one):

<input type="checkbox"/> Administrative law	<input type="checkbox"/> Trade secrets/trade mark/ or other intellectual property
<input type="checkbox"/> Commercial law	<input type="checkbox"/> Trusts
<input type="checkbox"/> Constitutional law	<input checked="" type="checkbox"/> Wills and Estates
<input type="checkbox"/> Corporate law	<input type="checkbox"/> Zoning
<input type="checkbox"/> Guardianships	<input type="checkbox"/> Other
<input type="checkbox"/> Real property	

6. Related case(s): None.

7. Basis of court's jurisdiction (including the citation of any statute conferring jurisdiction):

10 Del. C. §341

8. If the Complaint seeks preliminary equitable relief, state the specific preliminary relief sought: n/a

9. If the Complaint seeks summary or expedited proceedings, check here ____.

/s/David J. Ferry, Jr.
David J. Ferry, Jr. (#2149)